

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

DESNIQUE DESHAWN HERNDON,	§	
	§	
Petitioner,	§	
	§	
v.	§	Case No. 6:22-cv-219-JDK-KNM
	§	
UNITED STATES OF AMERICA,	§	
	§	
Respondent.	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Petitioner Desnique Deshawn Herndon, a pretrial detainee on multiple federal charges now pending in this Court, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. The petition was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On June 16, 2022, Judge Mitchell issued a Report recommending that the petition be dismissed without prejudice as premature and unexhausted. Docket No. 3. A copy of this Report was sent to Petitioner. In response, Petitioner sent a letter to the Court asking why his petition was recommended for dismissal so quickly. *See* Docket No. 6. However, the letter did not address the substance of the Report, and Petitioner has not filed a written objection.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court

examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Petitioner did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 3) as the findings of this Court. This petition for habeas corpus is hereby **DENIED** and this action is **DISMISSED** as premature and unexhausted, without prejudice to Petitioner's ability to raise his claims in the context of his ongoing criminal proceedings or to seek relief as appropriate under 28 U.S.C. § 2255 upon completion of criminal proceedings and exhaustion of his claims for relief. The Court **DENIES** a certificate of appealability.

So **ORDERED** and **SIGNED** this **20th** day of **July, 2022**.

  
JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE